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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/803,473

03/17/2004

Erik J. Reed

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YAHOO C/O MOFO PALO ALTO  
755 PAGE MILL ROAD  
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EXAMINER

DEBNATH, SUMAN

ART UNIT

PAPER NUMBER

2135

MAIL DATE

DELIVERY MODE

05/06/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<p align="center"><b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b></p>	<p><b>Application No.</b> 10/803,473</p>	<p><b>Applicant(s)</b> REED ET AL.</p>	
	<p><b>Examiner</b> SUMAN DEBNATH</p>	<p><b>Art Unit</b> 2135</p>	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 09 April 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☒ Applicant's reply has overcome the following rejection(s): The 112 rejection on claims 30-45.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: None.  
Claim(s) objected to: None.  
Claim(s) rejected: 1-45.  
Claim(s) withdrawn from consideration: None.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_  
13. ☐ Other: \_\_\_\_\_.

/KIMYEN VU/  
Supervisory Patent Examiner, Art Unit 2135

Continuation of 11. does NOT place the application in condition for allowance because: The rejections of the previous final rejection are maintained. For a detailed explanation of the application of the cited prior art, see the office action mailed on 01/09/2008. In response to the Applicant's remarks, claim rejections 35 U.S.C. 112 have been withdrawn. Examiner maintains the claim rejections 35 U.S.C. 101. Applicant didn't define computer readable medium in the specification. Computer readable medium is not limited to subject matter that which falls within a statutory category. For instance, computer readable medium could be carrier waves which could have data (i.e. program code) which doesn't fall under statutory category.

Applicant argues that: "Powers does not disclose or suggest incrementing a first count value in response to the event identification matching, and decrementing a second count value in response to the even identification failing to match event identification" Examiner maintains that: Powers teaches incrementing a first count value in response to the event identification matching (column 5, lines 1-25, "The event counter module 54 increments the counter...."). Examiner agrees with the Applicant that Power doesn't teach "decrementing a second count value in response to the even identification failing to match event identification." However, Applicant should note that Teague teaches decrementing a second count value in response to the even identification failing to match event identification ([0063], "decrements the counter.."). Therefore, it would have been obvious to one of the ordinary skill in the art at the time of the invention was made to modify the teaching of Powers as taught by Teague in order to reduce spamming by limiting the number of messages.

Applicant argues that: "MeLampy does not disclose 'replacing the selected table entry with the event identification associated with the received event in response to the second count value equaling a predetermined value'"

Examiner maintains that: MeLampy teaches replacing the selected table entry with the event identification associated with the received event in response to the second count value equaling a predetermined value ("...the entries that are no longer required are removed/replaced by the newer entry" -e.g. see col. 45, lines 20-25).

In response to applicant's arguments against the reference individually (i.e. Teague reference), one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Power teaches the event identification failing to match an event identification associated with the selected table entry and Power teaches associating count value associated with the selected table entry (i.e. column 5, lines 1-25). Power is silent on decrementing a counter value. However, Teague reference can be used to modify the Power reference to decrement a count value (i.e. [0063]). Power discloses determining a metric value for the event from the screening table, the metric value indicating that the event is an abusive request (column 5, lines 1-25, "...determine whether the filtered event exceeds the threshold. If the event count exceeds the filtered event exceeds the threshold, an alarm is emitted to the manager 42."). MeLampy discloses replacing a table entry when the entry equaling zero ("...the entries that are no longer required are removed/replaced by the newer entry" -e.g. see col. 45, lines 20-25).

Examiner's note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may be applied as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention as well as the context of the passage as taught by the prior art or disclosed by the examiner. .